

AMENDED IN ASSEMBLY AUGUST 13, 2008

AMENDED IN SENATE MAY 23, 2008

AMENDED IN SENATE APRIL 8, 2008

AMENDED IN SENATE APRIL 3, 2008

SENATE BILL

No. 1729

Introduced by Senator Migden

February 22, 2008

An act to add Section 1257.5 to the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1729, as amended, Migden. Health facilities: training.

Under existing law the State Department of Public Health licenses and regulates skilled nursing facilities and congregate living health facilities, as defined. Violation of these provisions is a misdemeanor.

The bill would require that all registered nurses, certified nurse assistants, licensed vocational nurses, and physicians working in skilled nursing facilities or congregate living health facilities participate in a training program to be prescribed by the State Department of Public Health that focuses on preventing and eliminating discrimination based on sexual orientation and gender identity, as defined. The bill would allow the department to charge each licensee a fee, not to exceed the department's costs, for determining compliance with the program. Because this bill would create a new crime, it imposes a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Registered nurses and physicians have continuing education
4 requirements that include cultural diversity training and
5 patient/provider relationships. However, sexual orientation and
6 gender identity are not included in these education programs.

7 (b) Certified nurse assistants do not have sexual orientation and
8 gender identity education requirements.

9 (c) The effects of lifelong experiences of being marginalized
10 place lesbian, gay, bisexual, and transgender (hereafter LGBT)
11 seniors at high risk for isolation, poverty, homelessness, and
12 premature institutionalization.

13 (d) Many LGBT seniors avoid accessing elder programs and
14 services, even when their health, safety, and security depend upon
15 it.

16 (e) LGBT seniors often lack social and family support networks
17 available to non-LGBT seniors.

18 (f) LGBT seniors are denied many vital financial benefits
19 provided to heterosexual married couples, including Social Security
20 benefits and equal long-term care insurance protections.

21 (g) The number of people 65 years of age and older in California
22 is expected to double to 6.5 million by 2020, thereby increasing
23 the number of LGBT seniors who are receiving inadequate services.

24 (h) The state needs to ensure that the needs of LGBT seniors,
25 as well as other under-represented groups, can be adequately
26 addressed by the staff at senior care facilities.

27 (i) California leads the nation in the protections it affords to
28 LGBT persons. By including the needs of LGBT seniors and other
29 under-represented groups in the training of health care
30 professionals, California can act as a model for change in other
31 states and at the federal level.

32 SEC. 2. Section 1257.5 is added to the Health and Safety Code,
33 to read:

1 1257.5. (a) All registered nurses, certified nurse assistants,
2 licensed vocational nurses, and physicians working in skilled
3 nursing facilities, as defined in subdivision (c) of Section 1250,
4 or congregate living health facilities, as defined in subdivision (i)
5 of Section 1250, shall participate in a training program, to be
6 prescribed by the department, that focuses on preventing and
7 eliminating discrimination based on sexual orientation and gender
8 identity.

9 (b) The department may incorporate the training prescribed in
10 subdivision (a) into any existing training program that is designed
11 to prevent or eliminate discrimination in senior care facilities.

12 ~~(c) Organizations or entities with a proven track record of~~
13 ~~providing training on the elimination of discrimination based on~~
14 ~~sexual orientation and gender identity shall be given priority in~~
15 ~~the selection of qualified trainers.~~

16 ~~(d)~~

17 (c) The department may charge each licensee who is subject to
18 subdivision (a) a fee associated with determining compliance. The
19 fee shall not exceed the department's costs for the enforcement of
20 this section.

21 ~~(e)~~

22 (d) "Sexual orientation" and "gender identity" have the same
23 meanings as those terms are used in Section 422.56 of the Penal
24 Code.

25 SEC. 3. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.